



***Town of Tyngsborough
Conservation Commission***

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Minutes
October 25, 2011
APPROVED

Present:

ES: Ed Smith **JE:** Jerry Earl **BM:** Brian Martin **LB:** Linda Bown **MM:** Matt Marro
LG: Lucy Gertz

Absent:

JN: John Nappi **JK:** Jeff Kablik

Attachments:

1. Agenda
2. Whitman & Bingham Peer Review Report for 25 Parham Rd.(dba Thirstys Pub) – 10/20/11
3. Enforcement Order for 4 Bridgeview Circle – 10/6/11
4. Director's Report for 4 Bridgeview Circle – 10/18/11
5. Director's Report for 9 Joco Dr. – 10/21/11
6. Director's Determination for 12 Dane Circle – 10/24/11
7. Director's Report for Pawtucket Blvd. Reconstruction – 10/13/11
8. Director's Report for 11 Wyoming Rd. – 10/2011

7:00pm BM opened meeting

7:02pm **25 Parham Road/6 Woodlawn St., d.b.a. Thirsty's Pub (M31A, P113/P114) – Notice of Intent, DEP# 309-0847** for the proposed construction of a parking area with associated grading & drainage improvements.

ES: Motion to waive the reading of the legal ad and abutters notice.

JE: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

Applicant engineer Ken Lania appeared before the Commission to speak on the above filing. Mr. Lania summarized the project which includes a parking lot to be covered with a pervious material to allow better drainage, and a proposed retaining wall and swale at the back of the lot in order to divert the water away from the abutting property.

Currently the site itself is under an Enforcement Order from Mass DEP regarding an intermittent stream located at the center of the parcel Woodlawn St. The applicant's proposal aims to rectify the issues identified in the Enforcement Order as well as to improve the drainage on the lot and utilize it for overflow parking at Thirstys Pub located at 25 Parham Rd. Mr. Lania explained that prior to the applicant's filling in the drainage swale on

the southern portion of the lot, water drained into it from a 15" pipe exiting from the abutting property and an additional 4" pipe. Their initial work on the lot was due to the belief that there were no resource areas on the lot. However, it was determined that an intermittent stream exists on the lot and therefore, a Notice of Intent filing was executed.

The proposed drainage system would incorporate a larger volume area for storage that is located in the northwest part of the property. The proposed retrofitted area for restoration of the drainage swale area is designed greater than what previously existed and provides triple the volume that is currently on site. In addition, landscaping is incorporated into the design to help beautify the area and create a nice buffer zone for the abutting properties. The two existing catch basins at the base of Woodlawn St. collect stormwater runoff from Parham Rd. and Woodlawn St. and then eventually drain off onto Parham Rd. through two outfall drain lines (18" rcp and 24" rcp). Mr. Lania noted the entire general area of Woodlawn St. and the abutting streets are currently under engineering review to see if there might be some value in making any design changes for this NOI in order to compliment the Woodlawn watershed area drainage resolution proposal.

Mr. Lania explained that the proposed project would create a parking lot on the Woodlawn St. lot which would be covered with a pervious material. In addition, some improvements are also being proposed around the existing bar area. Mr. Lania went on to address an issue with work that was done on the existing bar parking lot. That issue was the contention that the grade of that area was raised, and water was pushed on to the abutting property. In fact, the proposal with former Building Inspector Mark Dupell was to gravel that parking area as well as install some buffer retaining wall and some swales on that retaining wall. The applicant was able to start the work but was unable to complete the work. Mr. Lania believes that once this retaining wall is completed it will solve all of the problems that pass over to the abutting pizza store. With this proposal, Mr. Lania believes that the existing conditions will be greatly improved on this property.

Conservation Commission engineer Brian Milisci reported his findings. Among them were items from the Tyngsborough Wetlands Protection By-Law, Stormwater Regulations, and Wetlands Protection Act that were not addressed. Mr. Lania indicated that all of these items will be easily addressed. Specifically, Mr. Milisci noted the 30 foot no build zone, the 50 foot no structure zone, and the 100' buffer zone. Ultimately it would be recommended that all alterations, resource areas, and existing structures be delineated on the plans.

Mr. Milisci went on to point out that the outfall from the replication area was proposed to be directed to a new catch basin that connects to an existing catch basin. Mr. Milisci noted that "catch basin to catch basin" type of plumbing is frowned upon. He suggested that the Highway Department be consulted on this type of plumbing design regarding maintenance, etc.

Mr. Milisci went on to report that the stormwater calculations show an increase in the 100 year storm event, which is not in line with Tyngsborough's by-laws. It may be something that the applicant has to correct or request a waiver from the Commission. Additionally, the stormwater calculations need to be revised in order to comply with Tyngsborough's Stormwater guidelines. Mr. Milisci also noted that the proposed work on the plans is within the resource area which is a violation of the 30 foot no disturb zone in the local by-laws. Two properties abutting (Mercado and Paquette) the empty lot may be impacted by relocating the resource area closer to their property, and would impact them in the future if they wanted to do any work on their property, so it may be something that the Commission would like to address.

Mr. Milisci indicated that the Wetlands Protection Act states that whenever you alter more than 50 feet of bank you are required to do a wildlife habitat analysis. If the resource area is considered an intermittent stream, and since there is more than 50 feet of proposed alteration, a habitat evaluation should be conducted. There were several comments related to the drainage analysis and stormwater quality standards set forth by DEP. In addition, Mr. Milisci commented that the project may not meet the definition of a re-development project as defined by DEP. To the extent practical, a project needs to meet those standards, and this project may not. The applicant has said that this project is a mixture of re-development and new development. Mr. Milisci suggests that this project may not meet the standards of a re-development project in which case the applicant may have to provide more treatment on top of what he has already proposed. All of these issues should be clarified and/or revised in order to comply with all State and local regulations. Mr. Milisci also noted that an operation and maintenance plan for this project, was not submitted with this filing. MM pointed out that the DEP has commented that the replication area cannot be used as a detention area at the same time, which will have to be addressed by the applicant as well. Mr. Lania countered by noting on the plans that the restoration area for the drainage swale does not collect any of the run-off coming from the parking area, so no where in the design or the drainage report is the area used as a detention basin.

BM asked if this project is being monitored in any way by DEP. MM said that the DEP will review any Order of Conditions issued to ensure that all of their concerns have been met satisfactorily, as well as those of the Town; if not, the DEP will intervene. ES recommended that Mr. Lania work on addressing all of Mr. Milisci's comments and revise the plans as required and add the structure details around the edge of the property. In addition, it would be a good idea for the Highway Department to look at the plans and provide any comments they may have.

Further discussion concerning the type of resource area took place whereby MM indicated that the resource area was designated an intermittent stream by DEP. MM went on to say that he established that there was no Bordering Vegetated Wetland (BVW) associated with that stream by conducting a dye test in the area per DEP's request.

Further discussion and debate was heard on the effectiveness of the design in moving the stormwater. Mr. Milisci pointed out that the crux of this design is that the entire parking lot recharges into the ground. The calculations show that there is zero run-off coming from that parking lot area provided that they maintain it properly. Once the design is implemented and it is working then there will actually be less water running through there short of the 100 year storm event. The whole premise of this design is that whatever rainwater falls onto this parking lot design will not get into the drainage system whatsoever. So, from that standpoint, the applicant is actually improving the conditions out there.

At this time, abutters came forward with their concerns. Joe Paquette of 12 Woodlawn St. spoke of his displeasure with this whole project and how it will affect his property. He questioned whether an approval by the Commission would override the current ruling from the Building Inspector concerning the use of the lot as a parking lot. MM noted that it does not have any bearing on the Building Inspector's ruling and does not overrule the zoning bylaws for usage. Mr. Paquette went on to strongly oppose the plan as it will direct the flow of water closer to his home and through his fieldstone foundation which is 70 years old.

James Roy of 6 Sherbrooke St. also strongly opposed this project and raised questions of illegal grading done around the existing bar which has increased the flow of water.

Brenda Beauschane of 5 Woodlawn St. took issue with the retaining wall that Thirsty's built.

BM suggested that Mr. Lania work with Mr. Milisci on revising the plans based on his review and the Commission's comments and questions, and also look into re-directing the proposed drainage system away from the abutting properties in order to lessen the impact on them.

ES: Motion to continue this hearing until December 13, 2011

JE: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

8:30pm 4 Bridgeview Circle (M28, P105, L0) – Enforcement Order for filling and grading within a resource area.

Kevin Riney, managing agent for the Bridgeview Condos, appeared before the Commission to address this Enforcement Order. MM reported that there were drainage pipes in the complex that were crushed and needed to be replaced. In the meantime, they elected to install a couple of by-pass lines in order to avoid a problem from Hurricane Irene that was threatening the complex. MM inspected the area of concern and asked that the silted area be cleaned out and that some rip-rap be placed over the exposed pipes, which has not been done yet. Mr. Riney indicated that he would have those two items finished by the end of next week. MM went on to say that the original developer of the complex, Walter Eriksen, was contacted in order to obtain the as-built plans that will aid Mr. Riney with the necessary repairs.

JE: Motion to continue until November 8, 2011.

LB: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

JE: Motion to ratify the Enforcement Order for 4 Bridgeview Circle issued by Matt Marro on October 16, 2011.

ES: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

8:45pm 9 Joco Dr. (M22, P39, L0) – Request for Certificate of Compliance, DEP# 309-410 Order of Conditions issued 5/13/1997.

MM reviewed this property and found it to be in compliance with the original Order of Conditions, therefore, he recommended to issue a Certificate of Compliance.

JE: Motion to issue a Certificate of Compliance for 9 Joco Dr., DEP# 309-410.

LB: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

Director's Determination

12 Dane Circle – Above ground pool

MM inspected this property and the work is proposed to be done 75 feet out from the resource area and poses no threat as it is a removable structure.

LB: Motion to approve the Director's Determination for 12 Dane Circle

JE: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

Director's Reports

Pawtucket Blvd. Realignment Project – This project is proceeding well and according to the Order of Conditions. ES was curious when the landscaping would be taking place. MM said that he would talk with Mass DOT's engineers.

11 Wyoming Rd. (Metal shed with concrete pad) – MM reported that this project will need an RDA. The homeowner has been notified.

Discussion

Lake Massapoag Aquatic Survey Report

JE: Motion to postponed this discussion until November 8, 2011.

LB: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

Minutes/Bills/Other New Business:

LB: Motion to accept the minutes from October 11, 2011.

ES: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

Massachusetts Congress of Lake & Pond Associations, Inc. (COLAP)

ES: Motion for the MM to represent the Conservation Commission on the COLAP

JE: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

9:15pm

LB: Motion to adjourn

JE: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes: 5-0-2

Respectfully for the Conservation Commission,

Pamela Berman
Administrative Assistant